

1 SILVANO B. MARCHESI (SBN 42965)
County Counsel
2 GREGORY C. HARVEY(SBN 47974)
Assistant County Counsel
3 COUNTY OF CONTRA COSTA
651 Pine Street, 9th Floor
4 Martinez, California 94553
Telephone: (925) 335-1800
5 Facsimile: (925) 335-1866
email: gharv@cc.cccounty.us

6 Attorneys for Defendants
7 COUNTY OF CONTRA COSTA
and CITY OF SAN RAMON
8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11

12 ABHINAV BHATNAGAR,
13 Plaintiff
14

15 v.

16 JASON INGRASSIA, COUNTY OF
CONTRA COSTA, and CITY OF SAN
17 RAMON,
18 Defendants.
19

Case No. CV07-02669 CRB

DECLARATION OF GREGORY C.
HARVEY
20

21 I, Gregory C. Harvey, declare:
22

- 23 1. I make the following declaration based on my own personal knowledge and, if called to
24 testify, I would be competent to testify to the statements made below.
25
- 26 2. I an Assistant County Counsel in the offices of the County Counsel and am attorney of
27 record for the City of San Ramon and the County of Contra Costa.
28

DECLARATION OF GREGORY C. HARVEY

- 1 3. Exhibit A to this declaration is a true and correct copy of the Notification of the
2 Findings of Fact and Decision of Hearing Officer L. Lee, dated October 16, 2006
3 relative to Department of Motor Vehicle hearings relating to the May 20, 2006 arrest
4 for driving under the influence, i.e., driving with a blood alcohol content at or above
5 0.08.
6
- 7 4. Exhibit A is a true and correct copy of the document that was produced by plaintiff in
8 response to defendant County's discovery request by Justice First, the attorneys of
9 record of Abhinav Bhatnagar.
10
- 11 5. On October 17, 2007, I attended and participated in the deposition of Abhinav
12 Bhatnagar. Exhibit D contains true and correct copies of excerpts of testimony the
13 deposition of Mr. Bhatnagar.
14
- 15 a. Exhibit D-1 is a true and correct copy of an excerpt from Mr. Bhatnagar's
16 testimony at 299:16-24.
17
- 18 b. Exhibit D-2 is a true and correct copy of an excerpt from Mr. Bhatnagar's
19 testimony at 293:18-294:20.
20
- 21 c. Exhibit D-3 is a true and correct copy of an excerpt from Mr. Bhatnagar's
22 testimony at 291:21-293:22.
23
- 24 d. Exhibit D-4 is a true and correct copy of an excerpt from Mr. Bhatnagar's
25 testimony at 167:11-168:3.
26
- 27 e. Exhibit D-5 is a true and correct copy of an excerpt from Mr. Bhatnagar's
28 testimony at 310:5-311:7

DECLARATION OF GREGORY C. HARVEY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

f. Exhibit D-6 is a true and correct copy of an excerpt from Mr. Bhatnagar's testimony at 168:8-18.

g. Exhibit D-7 is a true and correct copy of an excerpt from Mr. Bhatnagar's testimony at 311:8-312:8.

h. Exhibit D-8 is a true and correct copy of an excerpt from Mr. Bhatnagar's testimony at 169:20-170:17.

6. On January 22, 2008, I took the deposition of Jonathon Young, a contracting phlebotomist for the Contra Costa County Sheriff. As established in Exhibit E, Mr. Young took blood from Mr. Bhatnagar at approximately 2:30 a.m. on May 20, 2006 and sealed and marked the vials containing the blood which was ultimately tested for blood alcohol levels by Stephanie Williams. Exhibit E contains true and correct copies of excerpts of testimony from and exhibits to the deposition of Jonathon Young.

a. Exhibit E-1 is a true and correct copy of an excerpt from Mr. Young's testimony at 25:11-26:12.

b. Exhibit E-2 is a true and correct copy of an excerpt from Mr. Young's testimony at 31:15-36:25.

c. Exhibit E-3 is a true and correct copy of an excerpt from Mr. Young's testimony at 38:11-39:3.

d. Exhibit E-4 is a true and correct copy of Exhibit 2 to the deposition of Jonathon Young.

DECLARATION OF GREGORY C. HARVEY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

e. Exhibit E-5 is a true and correct copy of Exhibit 3 to the deposition of Jonathon Young.

f. Exhibit E-6 is a true and correct copy of Exhibit 4 to the deposition of Jonathon Young.

7. Exhibit G is a compilation exhibit of an aerial photograph and map showing the area of Central Park, the Valero gas station, and the El Balazo Restaurant.

a. Exhibit G-1 is a true and correct copy of an aerial photograph showing the location, based on my personal inspection, of Central Park, the Valero Gas Station, and El Balazo Bar and Restaurant which I downloaded through the County Intranet from the County's GIS mapping system in the Department of Public Works to show the relation of the park to Bollinger Canyon Road and the Valero Gas Station.

b. Exhibit G-2 is a corresponding map showing the streets for same location downloaded from the Contra Costa County GIS system.

8. Exhibit H is a true and correct copy of the proof of service from the Court's electronic filing docket declaring that Ms. Huang, Mr. Bhatnagar's attorney, served Officer Ingrassia, with the summons and complaint in Abhinav Bhatnagar v. Jason Ingrassia et al., United States District Court No. C07-20669. The document indicates that this service was accomplished at the Superior Court building at 1010 Ward Street, in Martinez on the date of the Smith Hearing on August 8, 2007, the date of the motion to suppress in *People v. Smith*. (see Exhibit 11 to the plaintiff's motion.).

DECLARATION OF GREGORY C. HARVEY

- 1 9. On December 4, 2007, I participated in the deposition of Marcus Compagna who was
2 Mr. Bhatnagar's dining and drinking companion on the night of May 19-20, 2006.
3
- 4 10. Exhibit L is a collection of deposition excerpts and exhibits from the deposition of
5 Marcus Compagna which contradict Mr. Bhatnagar's versions of events as to both what
6 and how much he had to drink, the timing of his drinking, the location of drinking, and
7 the purpose of his meeting with Mr. Compagna.
8
- 9 11. Exhibit L-7 contradicts Mr. Bhatnagar's version of his interaction with Officer
10 Ingrassia at the police station in two respects. First, that the officer said something
11 racial that Compagna overheard. Secondly, Compagna's recollection of what
12 Bhatnagar asked him, i.e. to come pick him up at the police station contradicts Mr.
13 Bhatnagar's version of his interaction with Officer Ingrassia and confirms Officer
14 Ingrassia's statement that he allowed Mr. Bhatnagar to make calls so that he could be
15 cited and released after his blood test rather than be taken to jail as long as he could get
16 somebody to be responsible for him.
17
- 18 12. The exhibits within Exhibit L can be summarized as follows:
19 a. Exhibit L-1: Mr. Bhatnagar and Mr. Compagna had dinner at Left Bank
20 Restaurant with Lilliana Quesada. Mr. Bhatnagar knows Lilliana Quesada.
21 They arrived at the restaurant between 7:00 and 8:00 p.m. (30:2-24, 34:24-
22 36:12)
23
- 24 b. Exhibit L-2: After arriving, they spent about 10-15 minutes at the bar.
25 Bhatnagar had a mixed drink containing alcohol. (37:18-38:6.)
26
- 27 c. Exhibit L-3: Mr. Bhatnagar had maybe a couple of more drinks during dinner.
28 The drinks that Mr. Bhatnagar had were large blue drinks that Mr. Compagna

DECLARATION OF GREGORY C. HARVEY

describes as “foo-foo” drinks and were served in 8 ounce glasses (38:18-39:6; 42:21-43:15.)

- d. Exhibit L-4: The excerpts show that during dinner they discussed not only a possible job for Mr. Bhatnagar, but also a racial discrimination and wrongful termination case that Bhatnagar had filed, a wrongful termination case that Mr. Compagna had filed, and a mutual class action that Bhatnagar, Lilliana, and Compagna were all involved in. (39:7-15; 17:22-19:22; 24:4-7; 24:22-25:12; 30:2-24; 34:4-20.)
- e. Exhibit L-5: The excerpts show that Bhatnagar and Compagna left the restaurant sometime between ten and eleven. On the way back to Compagna’s house, they stopped a little bar called El Balazo where they both had a beer. (40:13-23.)
- f. Exhibit L-6: The excerpts show that Compagna and Bhatnagar went back to Compagna’s house which was located about two blocks from the bar. Bhatnagar did not stay. He said he had to go and stated that he was fine to drive. (40:24-41:25.)
- g. Exhibit L-7: The excerpts show that after Bhatnagar left, Compagna watched T.V. for a while. He then got a call from Bhatnagar who had been arrested for DUI. Bhatnagar stated that the officer was willing to let him go if someone could pick him up in 20-30 minutes. (43:20-44:18.)
- h. Exhibit L-8: The excerpts show that Mr. Bhatnagar brought over a statement for Mr. Compagna to sign that Mr. Bhatnagar had drafted. Many of the factual statements in that document are not true. Compagna did not read it at the time he signed it. It was signed late at night on the hood of Mr. Bhatnagar’s car after

DECLARATION OF GREGORY C. HARVEY

1 Mr. Bhatnagar had called and woken Compagna up. Mr. Compagna was in his
2 pajamas. It was not signed at noon as Mr. Bhatnagar has testified. (49:21-57:21;
3 66:9-18; 71:25-72:4; 74:12-24; 98:18-99:2.)
4

5 The above statements are true and correct. Executed under penalty of perjury on April
6 ____, 2008 in Martinez, CA.
7

8
9 _____
Gregory C. Harvey
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF GREGORY C. HARVEY